

Downtown Commission Meeting
Minutes of May 13, 2011
8:30 a.m.
1st Floor North Conference Room - City Hall

Present: Chairman Dwight Butner, Presiding; Councilman Jan Davis (arrived at 10:30 a.m.), Mr. Byron Greiner, Mr. Bruce Hazzard, Ms. Rebecca Hecht (left at 10:30 a.m.), Mr. Michael McDonough, Ms. Pamela Myers, and Mr. Matthew Sprouse

Absent: Vice-Chair Kitty Love, Mr. Guadalupe Chavarria and Mr. Jimi Rentz

Chairman Butner called the meeting to order at 8:30 p.m. and informed the audience of the public hearing process.

Administrative

- ? Mr. Greiner moved to approve the minutes of the April 8, 2011, meeting. This motion was seconded by Mr. Hazzard and carried unanimously.
- ? The following members were appointed to the Nominating Subcommittee for the Downtown Commission leadership: Ms. Myers, Mr. Sprouse and Mr. Rentz.

Updates

Downtown Association

Mr. Greiner said that the Association is getting ready for their first Downtown After Five this year. He also noted that the Association has sent out a survey regarding food vendors and because the results were mixed, the Association elected not to take a stand on the issue.

Pack Square

Ms. Myers updated the Commissioners on the Pack Square Pavilion. Because various businesses around the Pack Square area had requested the Pavilion construction be delayed until November 1, 2011, so as to have the least possible impact on business owners in downtown Asheville. The Pack Square Board honored their request and the Pavilion construction will begin on November 1 and will take approximately 3.5 months to complete. Regarding restrooms, the City will take steps to let people know they can use the City Hall restrooms Hall. In addition, the City will pay particular attention to keeping the floors dry and clean.

Downtown Task Force/Development Services

Urban Planner Jessica Bernstein said that (1) the Courts Building is moving to City Council on May 24th; (2) Public Works will be resurfacing S. Lexington Avenue from Patton to Aston; (3) LED street lights will be installed on N. Charlotte Street, Kenilworth area and River Arts District; (4) Handi-Park Building site should be a completed parking lot by December; and (5) Planning Department has an intern who will be primarily working on updating the streetscape inventory.

Downtown Master Plan Implementation

Ms. Sasha Vrtunski, Downtown Master Plan Project Manager, updated the Commissioners on the Downtown Master Plan implementation, as follows:

Arts Subcommittee - They are working with the Public Art Board to potentially widen their roles and responsibilities, to include components of a Cultural Arts Commission.

Historic Preservation Subcommittee - Mr. Glines will update the Commission.

Transportation and Parking Subcommittee - In July they will begin looking at a downtown shuttle service.

Downtown Management Subcommittee – There will be a forum on Business Improvement Districts (BID) on June 2 at the Civic Center in the Banquet Hall at 7:00 p.m. They have discovered that not only would the BID include a tax in that district on property, but is it also on personal and business property. Chairman Butner felt it was important for the Commission members to attend the meeting if at all possible.

Design Review Subcommittee

Design Review Guidelines

Mr. Hazzard said that as a result of the Downtown Master Plan, the Design Review Subcommittee has worked on the Downtown Design Review Guidelines for many months. They are at a point where they feel the guidelines are complete enough that it warrants the endorsement of the Commission so staff can begin utilizing it. Even though the document is still missing graphics and some supplement information, they hope to have those inserted in the near future. This is a very user friendly document, which is really a baseline for dialogue.

Urban Planner Alan Glines said that the Historic Preservation Subcommittee (who has worked closely with members of the Design Review Subcommittee) asked that they be allowed to revise the portion of the introduction that reflects historic preservation goals. He passed out to the Commissioners the revised introduction. The Design Review Subcommittee concurred in the replacement of the introduction page with the page revised by the Historic Preservation Subcommittee.

Urban Planner Jessica Bernstein did a brief explanation of how the guidelines would function.

At Chairman Butner's request, Mr. Glines agreed that it is a good idea to internally test these on some earlier projects, e.g., Eagle Market Street Place, Courts Building, etc.

Mr. Steve Rasmussen, member on both Subcommittees, was pleased with the outcome. After the graphics are inserted, he suggested working with the Asheville Design Center to have a public workshop on these guidelines.

Mr. McDonough said that the Commission should impress upon the applicants the value of good design for the benefit of the community and streetscapes.

Ms. Hecht moved to adopt the Downtown Design Review Guidelines. This motion was seconded by Mr. Hazzard and carried unanimously on a 7-0 vote.

Mobile Food Vending Subcommittee

Mr. Glines said that the mobile vending ordinance considerations were discussed at the April meeting. He reviewed the stakeholder groups' consensus items (1) no roaming and vending; (2) no use of on-street parking spaces or public right-of-way areas for vending; (3) food

sales occur on private, permitted parcels; (4) all Buncombe County Health Department regulations must be met, i.e., trucks inspected multiple times per year; truck permit must be linked with a restaurant or commissary; truck must leave the site each day for clean-up and storage; truck is treated like a mobile restaurant; and (5) mobile vending policy will only allow food sales (services or merchandise not permitted). He hoped that the Downtown Commission would provide direction to staff to continue to work on the ordinance as it would pertain to the Central Business District (CBD), as this would be a City-wide ordinance for commercial districts that allow restaurant uses. He explained that there exists now in the Unified Development Ordinance (UDO) a separate provision for mobile food sales to occur on most commercial properties on a temporary basis, except for areas zoned CBD.

Regarding generators, the Building Safety Department said that as long as the generator is part of the truck, there is not a problem. They also noted that a portable generator would be able to be used if it was less than 650 watts, as they don't require grounding.

Regarding hours, the vendors hope to capture people after the restaurants have closed, and have thus requested that they be open until 2:30 a.m. (closed between 2:30 a.m. and 6:00 a.m.). Regardless of what happens with this ordinance, the vendors who fall under the temporary uses would like their hours extended from 6:00 a.m. to 2:30 a.m. (currently 10:00 p.m.).

Mr. Glines responded to Ms. Hecht on the following other concerns (1) permits be available only to Buncombe County residents; (2) limited number of permits in the CBD; and (3) the mobile food vendor community appoint some type of board that can address concerns brought up by stakeholders.

Mr. Hazzard provided information on the mobile food carts in Austin, Texas, noting they have created a mobile food cart association. Thoughts that need to be considered are what we are trying to be as we continue to grow, and the need to look at other communities we associate ourselves with to learn from their experiences.

Mr. Hazzard said that another element he has come across is if a cart is on a single spot for longer than 8 hours, they are required to have a notarized agreement with an adjacent business for the use of bathrooms by their employees.

Chairman Butner felt that many downtown parking lot owners will see this is an opportunity to rent out their parking lots and generate more income on the weekends, thus asking business owners and the downtown community (not only restaurants) to endure Bele Chere every weekend every week of the year. When the modifications were made in 1987 concerning outside dining, pushcarts, etc. great concern was taken from a strategic standpoint on whether anything we did on the street would interfere with revitalizing and making the downtown businesses economic viable. If we put no constraints on whether someone converts a private parking lot to a food court or whether or not we will keep downtown economically viable with a tax base, is a significant strategic issue. Not just about whether we can craft an ordinance that allows this or not.

Mr. Glines, Ms. Hecht and Mr. Hazzard responded to various questions/comments from the Commission, some being, but are not limited to: regarding temporary uses, define parcel as it relates to only one temporary use being allowed per parcel; what is the parcel approval process; does the generator have to be an integral part of the vehicle or can it be strapped onto the vehicle; will we be regulating the generators; will the vendor have to remove trash and recycling; are there restrictions on chain restaurants; have there been sites identified that meet the criteria; has someone offered their site to be used; how are we going to distinguish between permanent uses and temporary uses besides just things on the ground; the way this ordinance is structured as it applies to downtown, because of the issue of no restrictions on parking of commercial

vehicles, is much different that would apply on property outside the CBD; need to explore if we are in violation of any noise ordinances through the use of generators; prepare some sketches of what a lot might look like if the ordinance is adopted; have an inventory of available sites in the CBD; how do other cities address the conflict between the local food culture and mobile vending; can out of state vendors comply with this proposed ordinance, especially related to the compliance with Health Department requirements; is there a way to limit the sourcing of the trucks to Buncombe County; do mobile food vending trucks meet the criteria for becoming members of the Asheville's Independent Restaurants Association and are any of them current members; and fines.

Mr. Nate Kelly, potential mobile food vendor, said that you would not need a generator if you had a parking lot that had an outlet in it. He said that he has a site in the CDB that he offered staff to come by and look at it for compliance.

Mr. Kelly Miller, Executive Director of the Conventions & Visitor's Bureau, said that the Buncombe County Tourism Development Authority has not taken an official stance. He noted that people come to Asheville for the great authentic experience and the restaurants that struggle through the winter months that employ people and pay taxes make that happen. They are not opposed to food trucks; however, they want to make sure that the due diligence is done properly. We need to keep the brand of downtown.

Chairman Butner said that we have just completed an extremely long process of protecting our historic core from improper building. The Commission's job is to not only look at the form of downtown but the substance of it. He thinks we need to go out as see what Austin, Texas, has done and others to see how that enhances and supports what we have here.

In response to Mr. Greiner, Mr. Miller was not aware if the Chamber of Commerce has opened this up for input from its members, but he would check.

Ms. Robin Cape was pleased that this is being considered, while still supporting our downtown. We have talented young entrepreneurs who need a way to get started. She noted that a restaurant experience is completely different than a walk-away food truck experience. Asheville has led huge trends and was sure the Commission will find a way to make this work, if it can work. The downtown is a place where everyone should have a good experience, not just those who can afford a restaurant.

Mr. Steve Frabitore, President of the Asheville's Independent Restaurant Association (AIR) and owner of Tupelo Honey, did not recommend trying to vent from the inside of a truck. He felt this is a very complex issue. AIR has not taken sides, noting they only bring issues forward. He stressed that the proposed ordinance is not the consensus of the stakeholders and issues AIR brought forward are not contemplated properly in the proposed ordinance. He said he had a \$10,000 consumer research study for his own restaurant and it took 6 months to prepare. It gives him guidance to put best practices in place to make sure his business is properly run. He didn't think we have any food truck experts in town and no one can tell us what we think they'll do on private lots, how many there will be, where they will be located, where is the restaurant they are tied to, etc. He encouraged the Commission to not take a stance today, but gather quality information and third party research to protect what we have. He supports the entrepreneur spirit and supports food, but dismayed with the process.

Ms. Suzy Phillips, food truck vendor currently operating on the outskirts of the CBD, sells Lebanese food and uses local meats and products, just like a restaurant. As a food truck vendor, she is inspected thoroughly. She has tried to open a restaurant but cannot get a loan. For her, this is a stepping stone. It would be great if there are City or private parking lots that are not being used that people can benefit from renting. Rent at parking lots range from \$50-600 a

month. She has been open for one month and is hiring 4 people. Regarding generators, many are quiet and they should be professionally installed. She said that she has a properly installed propane tanks on her food truck.

Mr. Anthony Cerrato, owner of Fiore's Ristorante Toscana, questioned who would be enforcing the ordinance. He also felt that this will open up all kinds of mobile vending services – not just food.

Ms. Mary Ann West, Grove Arcade resident, explained how loud the noise is from trucks idling.

Mr. Joe Minicozzi, representing the Asheville Downtown Association, spoke about mobile food vending and how it can be a positive economic driver. He noted it is supported by the City's economic development office in Portland, Maine.

After a brief discussion, it was the consensus of the Commission to continue the mobile food vending discussion until next month.

New Business – Commissioner Initiated Topics

Pritchard Park – Multiple Events

Mr. Greiner said that this topic was resolved.

Outdoor (Art) Market

It was the consensus of the Commission to move this topic to the June meeting.

Segways on City Streets

It was the opinion of City Attorney Oast that Segways are permitted on sidewalks in North Carolina. It was the consensus of the Commission to ask the City Attorney to investigate restricting Segways on City sidewalks.

Public Comment

Ms. Mary Ann West requested the hot dog cart in Pritchard Park be removed as she felt it blocks some views of the Deco Gecko sculpture. Mr. William Cooley, owner of the hot dog cart, and his wife spoke in support of the location noting Mr. Cooley is an ambassador to the sculpture and the park. He cleans up the area, talks with visitors and helps elderly people cross the street. Assistant Planning & Development Director Shannon Tuch and Development Review Specialist Shannon Morgan said that they are looking into more locations for pushcarts and that the permits are reviewed and approved annually in June.

After discussion, there was no interest by the Commission to ask this vendor to leave this location.

It was the consensus of the Commission to have staff bring back more information on new pushcart locations at their next meeting.

Adjournment

At 10:52 a.m. Mr. Greiner moved to adjourn the meeting. This motion was seconded by Mr. McDonough and carried unanimously.